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ABSTRACT

Americans are constantly reevaluating their commitment to First Amendment rights and values and rearranging their priorities, asking themselves whether life would be more civil, more orderly, less threatening if the excesses of expression were somehow more subdued. That clear sense of unease permeates this second State of the First Amendment Survey. Findings suggest that Americans appreciate, understand, and endorse First Amendment principles but become wary and occasionally even hostile when it comes to the practices. Following a foreword by Kenneth A. Paulson, the survey results are analyzed by Paul K. McMasters. A total of 1001 interviews were conducted with modified, stratified sample of non-institutionalized adults 18 or older in the contiguous 48 states. Sampling error for a sample of this size is plus or minus 3% a 95% level of confidence. The annotated questionnaire with the results is included, as is a section on the methodology used. (BT)

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STATE OF THE FIRST AMENDMENT

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Foreword

By Kenneth A. Paulson

Almost 30 times a year, First Amendment Center Founder John Seigenthaler and I have the opportunity to meet with newspaper professionals attending the American Press Institute in Reston, Va.

John and I very much enjoy the give and take of these spirited sessions as we explore the First Amendment with editors, publishers, advertising directors, circulation executives and marketing specialists. At the close of each session, we spend a few minutes talking about the public's perception of the First Amendment.

Without exception, each API group comes away surprised that the public holds our First Amendment freedoms in considerably lower regard than do media professionals. The newspaper executives understand, of course, that the press is often under attack, but they are surprised to learn that almost a third of Americans believe the First Amendment goes too far in protecting free expression.

Those API discussions—and the public's need for an ongoing understanding of the fragility of our most fundamental freedoms—have inspired this survey, which will be conducted annually. This project builds on a 1997 study of the state of the First Amendment, which established an initial baseline for comparisons drawn here.

The current survey results are based on telephone interviews conducted by The Center for Survey Research and Analysis at the University of Connecticut from Feb. 26 - March 24, 1999. The sampling was conducted after 13 months of media coverage of the Monica Lewinsky scandal, but before the shooting tragedy in Littleton, Colo.

As you'll see in the analysis by First Amendment Ombudsman Paul McMasters, the public's perception of the

Kenneth A. Paulson is executive director of the First Amendment Center at Vanderbilt University and senior vice president for The Freedom Forum.

value of various First Amendment freedoms appears tied to a sense of how responsibly those freedoms are exercised today.

At the First Amendment Center, we strive to help preserve First Amendment freedoms by providing information and education. It's our belief that the more Americans know about the First Amendment and its role in a free society, the more supportive they will be of the freedoms it ensures.

It is our hope that this annual survey will both raise awareness of and enhance appreciation for our most fundamental freedoms.

Analysis

By Paul K. McMasters

Most Americans celebrate the freedoms guaranteed by the First Amendment. Yet they are not entirely comfortable with those freedoms. They are constantly reevaluating their commitment to First Amendment rights and values and rearranging their priorities, asking themselves whether life would be more civil, more orderly, less threatening if the excesses of expression were somehow subdued.

That clear sense of unease permeates this second State of the First Amendment survey. Americans appreciate, understand and endorse First Amendment principles, but become wary and occasionally even hostile when it comes to the practices.

Indeed, some of the findings in this survey arrive as a jolt to the constitutional conscience:

- More than half of the respondents believe the press has too much freedom.
- Half believe the Constitution should be amended to override the First Amendment's protection of flag-burning as political protest.
- Nearly one-third believe the First Amendment goes too far in the rights it guarantees.

Further, when responses in this survey are compared to the first State of the First Amendment survey—conducted in 1997—a series of negative shifts in attitudes toward First Amendment freedoms becomes apparent.

These findings call into question the durability of the First Amendment compact between the government and the citizenry. For more than two centuries, the First Amendment has represented a promise Americans made to themselves, resolving to endure even noxious speech in order to preserve that compact. Americans have invested heavily in the proposition that it is better to be offended than to be silenced. This survey,

Paul K. McMasters is First Amendment Ombudsman for The Freedom Forum.

however, reveals at best an inconstant commitment to that promise and to that proposition.

The news in this survey was especially bad for the press. When asked whether they think the press has too much freedom, 53% of the respondents said yes. That represents an increase of 15 percentage points from the 38% who said yes to the same question in 1997. *[Question 4]*

The bad news keeps coming. In disturbing numbers, Americans said newspapers should not be allowed to publish freely without government approval, that they should not be allowed to endorse or criticize political candidates, that journalists should not be able to use hidden cameras for newsgathering and that the news media should not be able to publish government secrets.

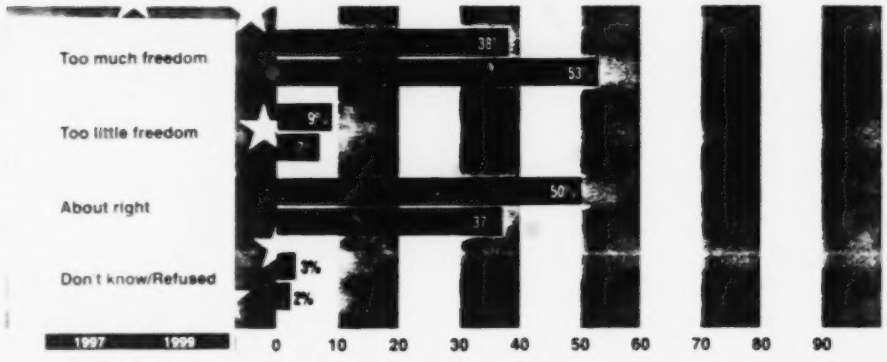
Generally, survey respondents were more supportive of freedom of speech—at least in principle—than of press freedom. For instance, the percentage of those who believe we have too little freedom of speech went from 18% in the 1997 survey to 26% in 1999. *[Q. 5]* And those who agree that Internet speech should enjoy the same protection as printed speech went up from 56% to 64%. *[Q. 41]*

In fact, freedom of speech transcends the First Amendment as one of the most cherished of all constitutional rights. When respondents in the current survey were asked what they feel are the most important freedoms, they most frequently answered "freedom of speech." Exactly half of the respondents volunteered that answer, a rate unchanged from the previous State of the First Amendment survey. *[Q. 1]*

Most frequently cited after speech was freedom of religion, with 18% saying that it was an important right. The Second Amendment right to bear arms was named by 14% of the respondents, up from 9% in 1997. Freedom of the press and the right to vote were both cited by 6% of those polled. Freedom of assembly was mentioned by 4%. The First Amendment right to petition government for a redress of grievances was mentioned by only 2% of the respondents, trailing the right to a fair trial and the right to privacy, each of which were named by 3%.

Significantly, even though First Amendment freedoms quickly came to mind when Americans were asked about important liberties, 49% were unable to connect even one of the five freedoms to the amendment. Asked whether they could name any of the specific rights guaranteed

2 Even though the U.S. Constitution guarantees freedom of the press, government has placed some restrictions on it. Overall, do you think the press in America has too much freedom to do what it wants, too little freedom to do what it wants, or is the amount of freedom the press has about right?



by the First Amendment, 44% of the survey respondents listed speech. Religion was cited by 18%, press by 12%, assembly by 8% and petition by 2%. [Q. 2]

Despite their high regard for the idea of free speech, many Americans have serious concerns about certain kinds of speech. That said, they generally express more support for freedom of speech than for freedom of the press. The disparity may be attributable to a perception that freedom of the press belongs to the press while freedom of speech belongs to every individual. If, indeed, individuals view speech as a very personal freedom, that may explain why some are inconsistent about extending it to others, especially to those they dislike or with whom they disagree.

About the survey

There have been only a few comprehensive assessments of public attitudes toward freedom of expression, the more notable including the 1954 survey by Samuel Stouffer, *Communism, Conformity, and Civil Liberties: A Cross-Section of the Nation Speaks Its Mind*; a series of studies in the '70s by Herbert McClosky and Alida Brill, published in 1983 as *Dimensions of Tolerance: What Americans Believe About Civil Liberties*; and the 1991 survey by Robert O. Wyatt for the American Society of Newspaper Editors, *Free Expression and the American Public*.

Generally, such research has shown that education and income are good predictors of support for freedom of expression. That seems to be the case in this survey also. In addition to education and income, though, respondents shared other characteristics that seem to typify those who support First Amendment freedoms. They tended to be white, male, politically but not religiously active, liberal or moderate, and young. In addition, support for First Amendment freedoms seemed to fluctuate depending on the type of expression, the medium of expression, and the identity of the speaker. Obviously, not all of these elements factored into every response.

As for education about the First Amendment, just over half of the respondents in this survey recall having a class on the First Amendment in grade school, high school or college. [Q. 9] In the 1997 survey, only 4% rated their education about the First Amendment "excellent"; 63% said it was poor or "only fair."

It would be unwise to form hard conclusions from the findings in this survey or the differences in responses between the 1997 and 1999 surveys. Two surveys over two years do not establish trends. With error margins of ±3 overall and ±4 in the 30% to 70% range, responses might differ by 6 to 8 points and still not be statistically significant. Even so, it seems prudent to take note of flagging support and sizable shifts in attitudes, whether positive or negative.

How much support do First Amendment freedoms need? Some would say that the First Amendment is quite secure as long as at least a bare majority supports it. Others would say that fundamental constitutional freedoms warrant substantial public support. Without that support, they would say, the First Amendment is in trouble, given the nature of the pressures and panics confronting Americans today and the apparent willingness of lawmakers to challenge constitutional freedoms.

Those who follow such things know that the First Amendment is under incredible assault on a daily basis, whether from adverse court decisions, proposed laws, scholarly studies or citizen initiatives. That fact, in conjunction with a survey of attitudes such as this one, offers substantial evidence that the state of

the First Amendment is not good. Further, we must be mindful that where attitudes go, action is seldom far behind, and such action inevitably is in the form of further restrictions on First Amendment freedoms, whether through lawsuits, court rulings or new laws.

To the extent these findings inform the public discourse swirling about these matters, we are compelled to pay them heed.

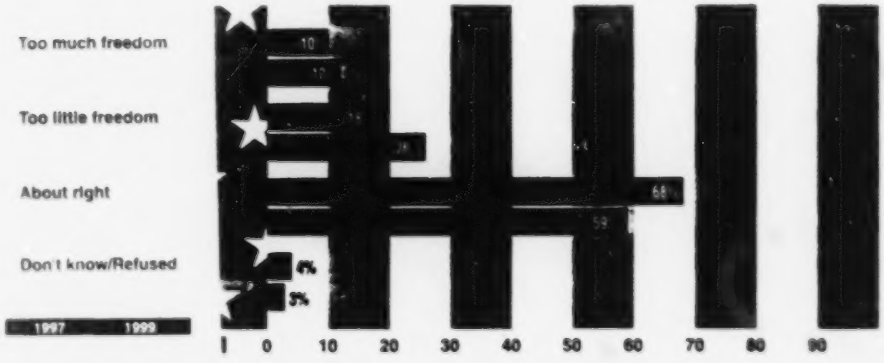
Speech: It all depends

Although those who think we have too much freedom of speech increased in this survey from 10% to 12%, those who think we have too little went from 18% to 26%. Six in 10 Americans think we've got it about right. *[Q. 5]* An overwhelming majority believes that Americans ought to be able to speak their minds, with 86% saying that people should be allowed to express unpopular opinions. *[Q. 16]* In actual practice, however, support for free speech rises and falls according to whether the speech is political, religious, artistic, racist, sexual or commercial in nature. Within each category of speech, attitudes also vary substantially, depending on the medium of expression chosen.

While a majority of respondents, 56%, said that musicians should be able to sing songs with lyrics that some might find offensive *[Q. 17]*, they were not so permissive toward other types of offensive expression. For example, 57% said that the public display of art that some might find offensive should not be allowed. *[Q. 22]* An even larger majority, 78%, would not allow the public use of words that racial groups might find offensive. *[Q. 21]*

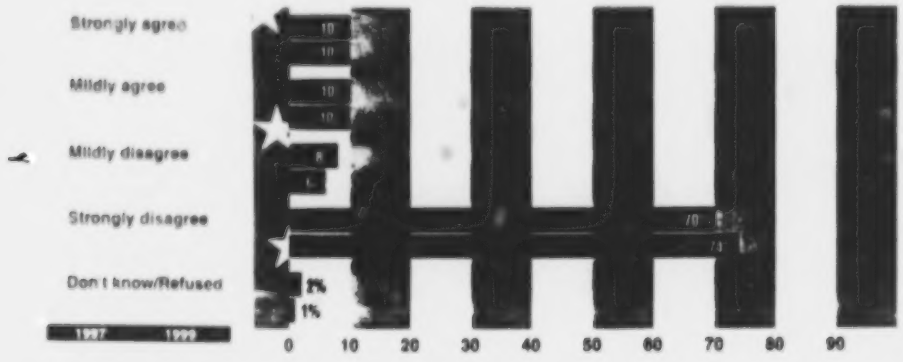
Not surprisingly, this survey confirms the 1997 findings that large numbers of Americans support restrictions on speech about sex. An interesting finding is that Americans feel the more accessible the medium is, the less permissible sexually explicit content should be. *[Q. 18, 42-46]* For example, when asked whether different media should be allowed to convey sexually explicit material, survey respondents were much more willing to allow sexually explicit material on rental videotapes than on the Internet. Here are the various media represented in the survey and the percentages of those who strongly or mildly agreed they should be able to carry sexually explicit material:

Video stores	63%
Premium cable	59%
Magazines	45%
Basic cable	26%
Internet	24%



Even though the U.S. Constitution guarantees freedom of speech, government has placed some restrictions on it. Overall, do you think Americans have too much freedom to speak freely, too little freedom to speak freely, or is the amount of freedom people have to speak freely about right?

An emotionally charged issue for most Americans is the burning or defacing of the American flag. The Supreme Court has ruled twice that the First Amendment protects flag-burning as symbolic speech. But most Americans don't want flag-burning protected; in this survey, 80% say people should not be allowed to burn or deface the flag as a political statement. *[Q. 19]*



People should be allowed to burn or deface the American flag as a political statement.

Despite their revulsion for flag desecration, however, Americans are evenly divided when it comes to amending the Constitution to prohibit it. When asked whether the Constitution should be amended, 51% said it should, and 48% said it should not. *[Q. 25]* When asked a follow-up question on whether they would support an amendment, knowing it would be the first time the Bill of Rights was amended, 8% of the 51% in favor of the amendment reversed themselves and said no. *[Q.26]* These responses are little changed from the 1997 survey.

Americans seem particularly strict about what they will allow on television, apparently considering it such a presence in their lives that programming must be held to a different standard than expression in other media. This feeling is so strong that significant numbers of people are prepared to accept the federal government's help in determining what they see on television. The implementation in 1997 of the TV program rating system—to be combined with v-chip technology in new televisions starting this summer—may explain an increasing acceptance of the government's involvement in helping parents guide the viewing choices of their children.

In the 1997 survey, respondents were asked whether government has a role to play in developing a system to rate television programs; 44% said it did. In the current survey, 57% agreed when asked if the federal government should or should not be involved, either directly or indirectly, in requiring the ratings of entertainment television programs. *[Q. 47]* Even though most approve of this government role, there is some question as to whether they consider it regulation. When asked directly whether the government should regulate what appears on television, 53% either strongly or mildly disagreed. *[Q. 39]*

Support for Internet-speech freedom increased over the two years between the 1997 survey and the present study. Those who mildly or strongly agree that Internet speech should enjoy the same protection as printed speech went up from 56% to 64%. *[Q. 41]*

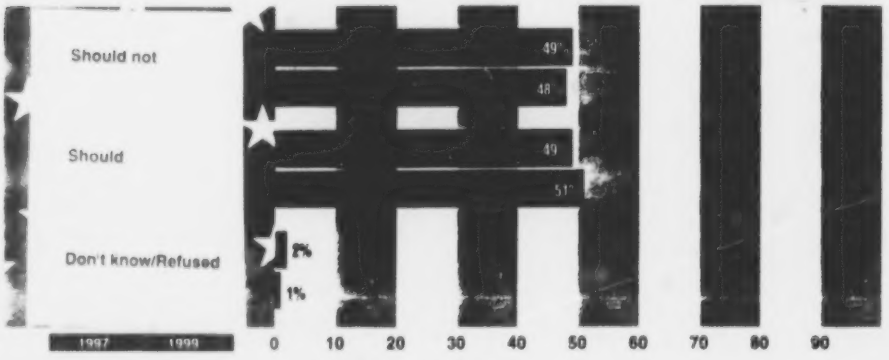
That increase possibly could be explained by a growing familiarity with the new technology as well as by several court decisions extending more protection to Internet speech.

Americans remain wary, however. Only 24% thought that sexually explicit material should be allowed on the Internet. *[Q. 18]* A 58% majority said that public libraries should block access to certain Internet sites that might offend some people. *[Q. 40]* By the same majority, 58% said that the government should have a role in developing a rating system for Internet content. *[Q. 49]*

There is substantial public support for the general notion of advertising of products considered harmful, but support for this type of commercial speech, too, seems to be medium-specific. For example, 71% agreed with the statement that companies should be allowed to advertise tobacco *[Q. 10]*, and 63% agreed that companies should be allowed to advertise liquor and alcohol products. *[Q. 13]* When asked whether such advertising should be allowed on billboards, however, the respondents were not quite as supportive: 63% said yes for tobacco *[Q. 12]* and 60% for liquor *[Q. 14]*. That support dropped further when respondents were asked if companies should be allowed to advertise these products on television: 51% said yes for tobacco *[Q. 10]* and 53% for liquor. *[Q. 15]*

Interestingly, most Americans believe that within a particular type of communication there should be no disparity between the rights of tabloid or sensationalist media compared to mainstream media. Thus, 71% say the *Star* and the *National Enquirer* tabloid newspapers should have the same freedom to publish as *The New York Times* and *The Wall Street Journal*. *[Q. 50]* The same percentage believes that *Playboy* and *Hustler* magazines should have the same publishing freedom as *Time* and *Newsweek*. *[Q. 51]* And 60% say that Jerry Springer and Jenny Jones should have the same freedom as ABC News to air what they wish on television. *[Q. 52]*

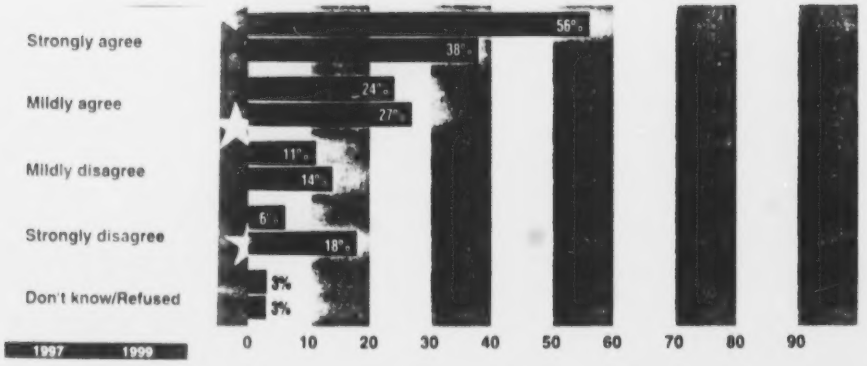
6 Some people feel that the U.S. Constitution should be amended to make it illegal to burn or desecrate the American flag as a form of political dissent. Others say that the U.S. Constitution should not be amended to specifically prohibit flag burning. Do you think the U.S. Constitution should or should not be amended to prohibit burning or desecrating the American flag?



Press:
It's in deep trouble

Two of every three Americans believe that news organizations should be allowed to report or publish what they think is appropriate. *[Q. 27]* But that endorsement of the idea of press freedom loses some of its force in the context of wobbly support for specific press activities.

In the 1997 survey, 80% said that newspapers should be able to publish freely



Newspapers should be allowed to publish freely without government approval of a story.

without government approval of a story; that figure dropped to 65% in the current survey. *[Q. 28]* In the previous survey, 38% said the press had too much freedom; that figure grew to 53% in the current survey. *[Q. 4]* In 1997, 85% said the press should be able to keep sources confidential; that figure fell to 79%. *[Q. 29]* In 1997, 69% said the press should be able to endorse or criticize political candidates; that is 63% now. *[Q. 31]* Those who believe journalists should not be able to use hidden cameras went from 65% to 72%. *[Q. 35]* And those supporting the reporting of government secrets dropped from 61% to 48%. *[Q. 32]*

There's more. Nearly six in 10 Americans (59%) think the ratings system now in use for entertainment programming on television should be extended to TV news. *[Q. 48]* A majority agrees that government should be allowed to regulate the activities of celebrity photographers known as "paparazzi." *[Q. 57]* Even student journalists suffer in the fallout. Support for high school newspapers being able to print controversial material went from 45% in 1997 to 37% in the current poll. *[Q. 34]*

These findings indicate that the news media is in deep trouble with the American public. A variety of studies, surveys, and focus groups document a real resentment of the press and its practices among Americans, who characterize the news media as arrogant, inaccurate, superficial, sensational, biased and bent. Worse, they apparently believe that the press is part of the problem, rather than part of the solution.

In a study conducted earlier this year by the Pew Research Center for The People & The Press, 32% of those surveyed said they thought the media were declining in influence, compared to 17% in 1985. The number of those saying the media protects democracy dropped from 54% in 1985 to 45%. Conversely, 38% said that the media hurt democracy; only 23% said that in 1985.[1]

The reasons for the news media's decline in public esteem are no doubt varied and complex. It must be acknowledged that there is a cyclical nature to this; for example, the 1947 Hutchins Commission report complained of the same sort of things the news media is targeted for today. Also generating significant criticism of the media in recent years were coverage of the O.J. Simpson trials, the death of Princess Diana, several incidents of plagiarism and embarrassing retractions of major stories by CNN and *The Cincinnati Enquirer*. But the coverage of the Clinton-Lewinsky affair

seemed to crystallize the public's acute dissatisfaction with the press.

There are other factors at play in public attitudes toward the news media. The proliferation of news outlets—including 24-hour radio and cable channels—ratchets up a general perception of saturation on major new stories, as well as conflating punditry with actual reporting in the minds of news consumers. It also increases the competition among media, leading to a certain amount of speculation, rumor and incremental reporting. No doubt, the fact that there is a general decline in public satisfaction with most major institutions in our society is of little comfort to the news media.

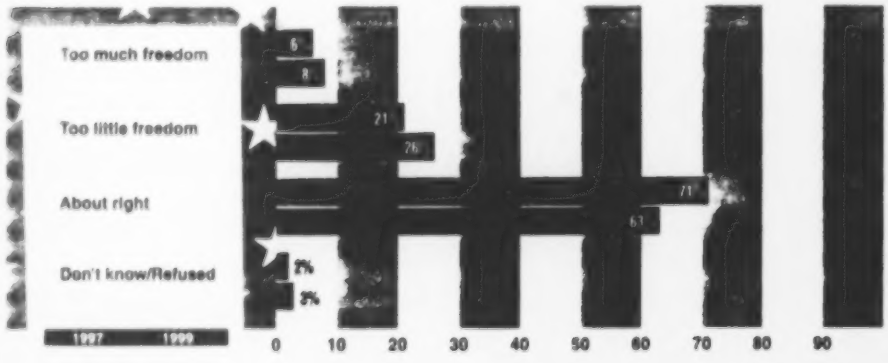
There is evidence in this survey that the public appreciates the vital functions that the press can perform in a democracy. For example, 67% said that courtroom trials should be televised; that's up from 51% in the 1997 survey. *[Q. 30]* An even larger number, 73%, said they think proceedings of the Supreme Court should be televised. *[Q. 36]*

Few Supreme Court justices would align themselves with that majority, however. Justice David Souter once told a House subcommittee, "The day you see a camera coming into our courtroom, it's going to roll over my dead body." Nevertheless, these findings are consistent with an American Bar Association poll released earlier this year that found that 61% of the people polled wanted to know more about the justice system.[2]

The results of questions about the press and privacy are intriguing. Six in 10 of those polled said journalists should not be allowed to investigate the private lives of public figures. *[Q. 37]* But when asked whether the press should be allowed to publish factual information about a public official's private life that may be embarrassing or sensitive, 48% said it should. *[Q. 53]* The response was similar in regard to celebrities such as actors: 44% said the press should be allowed to publish factual information that may be embarrassing or sensitive. *[Q. 54]* However, the public is more protective of private citizens. Only 37% agreed that the press should be allowed to publish embarrassing or sensitive information about them. *[Q. 55]*

Religion: A call for school prayer

When asked about rights they consider most important, a total of 18% of all respondents mentioned religion. *[Q. 1]* Of that total, 13% responded with "freedom to practice religion" and 5% with "freedom not to practice religion." It should be noted that on some



Even though the U.S. Constitution guarantees freedom of religion, government has placed some restrictions on it. Overall, do you think Americans have too much religious freedom, too little religious freedom, or is the amount of religious freedom people have about right?

surveys, when respondents are given a list of freedoms rather than an open-ended question, the number of respondents who list religion is higher.

Of significance in this survey is the fact that more than one in four respondents (26%) said that Americans have too little religious freedom; only 8% said there is too much. *[Q. 6]*

A clear majority of the respondents appeared to disagree with Supreme Court rulings that say prayer in public schools must be initiated by students, not teachers and administrators. When asked whether teachers or other public school officials should be allowed to lead prayers in school, 65% said they should. That figure was 57% in the 1997 survey. *[Q. 56]*

The passion and conviction many Americans evince concerning religion in public life is no doubt a significant factor in congressional efforts to pass a religious liberties amendment to the Constitution, in federal and state legislative proposals to permit the posting of the Ten Commandments in public buildings, and in other initiatives aimed at elevating the role of religion in public life.

In support of protest

The First Amendment freedoms of peaceful assembly and petitioning government for a redress of grievances usually do not command the time and attention devoted to issues involving religion, speech or the press. But Americans seem to understand that protests, demonstrations, rallies, marches and boycotts deserve constitutional protection. When asked whether a group should be allowed to hold a rally for a cause or issue that may be offensive to others, 62% agreed—although that figure represents a 10-point drop from the 1997 survey. *[Q.38]*

The 62% figure held when respondents were asked whether pro-abortion or anti-abortion groups should be allowed to hold a protest or demonstration in their communities. Two-thirds of those polled said they should be able to. *[Q. 23]* But when asked if militia groups, white supremacists, skinheads or Nazis should be allowed to protest in their communities, 52% said they should not. *[Q. 24]*

As for teen curfews: court rulings have not been conclusive on whether these violate the First Amendment assembly and association rights of young people. Nevertheless, a sizable majority of Americans apparently have made up their minds: 78% said curfews do not violate young people's rights. *[Q. 7]*

Most people just can't abide some types of expression in some situations.

An adjustment in priorities

Americans are not averse to weighing their First Amendment rights against other rights and desires from time to time. This survey indicates that such a process may be under way right now. It does not indicate whether this process is part of a trend, a cycle, or an overall re-evaluation of Americans' commitment to First Amendment traditions and principles. At the least, a substantial number—often a majority—of the respondents in this survey seem to be saying that curbs on First Amendment

freedoms must be part of the mix in the search for answers to the problems plaguing this society. It is clear that most people just can't abide some types of expression in some situations. It is also clear that the desire for civility and security is so deep that significant numbers of people would consider trading some expressive freedoms for them.

This apparent willingness by some Americans to consider restrictions on speech offers a glimpse of the American psyche's majoritarian/authoritarian streak, i.e. the tendency of some to believe that speech not approved of by the majority does not qualify for full First Amendment protection. This raises the question of whether government officials acting on behalf of the majority can restrict and punish some speech. To the extent that these findings reflect support for such a concept, the issue becomes not where we draw the line on certain kinds of speech, but who gets to draw it.

The negative attitudes toward First Amendment freedoms expressed in this survey indicate that Americans are debating whether constitutional tradition or public opinion should determine just how much freedom of expression we as a society will abide. Key issues in that debate:

- Are we moving toward a time when some speech must, in effect, be put to a vote and those speakers who fail to gain majority endorsement forced to forfeit a portion of their First Amendment franchise?
- Are we experiencing a loss of faith in the ability of our government and social institutions to withstand offensive, even insidious, speech?
- If we lack the will to protect speech on the fringe, how secure is acceptable speech? How do we measure its validity if it cannot be challenged?

There may be something else at work in these findings, too. It may well be that Americans are reexamining their attitudes toward some forms of expression because modes of communication have changed dramatically. This fact provokes another set of questions:

- Has technology made the communicative transaction so impersonal and diffuse that information is now of less value?
- Has knowledge itself devolved into data, thereby becoming a commodity which requires less protection?
- Is it possible in this environment that some speech has become so detached from the goals of public discourse and so offensive to private sensibilities that we no longer see a vital need for its protection by the First Amendment?

Certainly, there are varied reasons behind efforts to restrict speech: the inclination of individuals to censor others in order to validate their own thinking, the inclination of groups to silence others in order to elevate their own agenda, the predisposition of legislators to regulate speech so as to appear to be addressing intractable problems, and the tendency of those whose speech is targeted to be unorganized,

If we lack the will to protect speech on the fringe, how secure is acceptable speech?

unpopular individuals and groups lacking political power.

To their credit, Americans have for the most part been able to resist such forces. Rather than turning to legislation when confronted with offensive or unsettling speech, they have more often resorted to more speech and more tolerance.

Surveys such as this one, with findings both heartening and troubling, are primarily valuable as reminders of the First Amendment's importance as a check on our natural impulse to censor and silence. Were offensive speech and controversial press practices not protected, we might have a society that is calmer, safer, even more civil. But without the First Amendment, our society—and our lives—would be considerably less free.

11

[1] "Waning Influence?" *Presstime* (June 1999), p. 26.

[2] "ABA Announces Campaign for Cameras in Courts." *The News Media and The Law* (Spring 1999), p. 30.

II Annotated Questionnaire

The following information was gathered as part of a larger study jointly developed by the First Amendment Center and the Center for Survey Research and Analysis at the University of Connecticut. For a copy of the complete survey questionnaire and response data, contact Dr. Larry McGill at the Media Studies Center, 580 Madison Ave., New York, NY 10022 (212/317-6530).

Due to rounding and/or open-ended questions, percentages may not always equal 100.

1. As you know, the U.S. Constitution provides citizens many rights and freedoms. Are there any particular rights or freedoms that you feel are most important to American society?

1997	1999	
5%	6%	Freedom of the press
50%	50%	Freedom of speech
5%	5%	Freedom not to practice religion
14%	13%	Freedom to practice religion
1%	2%	Right to petition
4%	4%	Right of assembly/Right of association
9%	14%	Right to bear arms/or guns
2%	3%	Right to trial by jury/Fair trial
1%	3%	Right to privacy
1%	1%	Freedom from unreasonable search and seizure
—	1%	Right to protest
—	6%	Right to vote
11%	14%	Other
30%	24%	Don't know/Refused to answer

2. As you may know, the First Amendment is part of the U.S. Constitution. Can you name any of the specific rights that are guaranteed by the First Amendment?

1997	1999	
11%	12%	Freedom of the press
49%	44%	Freedom of speech
21%	13%	Freedom of religion
2%	2%	Right to petition
10%	8%	Right of assembly/association
7%	6%	Other
37%	49%	Don't know/Refused to answer

3. The First Amendment became part of the U.S. Constitution more than 200 years ago. This is what it says: 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.' Based on your own feelings about the First Amendment, please tell me whether you agree or disagree with the following statement: The First Amendment goes too far in the rights it guarantees.

14

16%	Strongly agree
12%	Mildly agree
22%	Mildly disagree
45%	Strongly disagree
5%	Don't know/Refused to answer

4. Even though the U.S. Constitution guarantees freedom of the press, government has placed some restrictions on it. Overall, do you think the press in America has too much freedom to do what it wants, too little freedom to do what it wants, or is the amount of freedom the press has about right?

1997	1999	
38%	53%	Too much freedom
9%	7%	Too little freedom
50%	37%	About right
3%	2%	Don't know/Refused to answer

5. Even though the U.S. Constitution guarantees freedom of speech, government has placed some restrictions on it. Overall, do you think Americans have too much freedom to speak freely, too little freedom to speak freely, or is the amount of freedom people have to speak freely about right?

1997	1999	
10%	12%	Too much freedom
18%	26%	Too little freedom
68%	59%	About right
4%	3%	Don't know/Refused to answer

6. Even though the U.S. Constitution guarantees freedom of religion, government has placed some restrictions on it. Overall, do you think Americans have too much religious freedom, too little religious freedom, or is the amount of religious freedom people have about right?

1997	1999	
6%	8%	Too much freedom
21%	26%	Too little freedom
71%	63%	About right
2%	3%	Don't know/Refused to answer

7. Do you think that imposing curfews on young people violates their First Amendment rights or not? (Clarify "young people" as "people under age 18.")

1997	1999	
19%	18%	Violates rights
78%	78%	Does not violate rights
3%	4%	Don't know/Refused to answer

8. Under current law, do Americans have the legal right to burn the American flag as a means of political protest? Yes or no?

33%	Yes
64%	No
3%	Don't know/Refused to answer

9. To the best of your recollection, have you ever taken classes in either school or college that dealt with the First Amendment?

52%	Yes
47%	No
2%	Don't know/Refused to answer

I am going to read you some ways people might exercise their First Amendment right of free speech. For each, tell me if you agree or disagree that someone should be allowed to do it.

10. Companies should be allowed to advertise tobacco.

1997	1999	
26%	32%	Strongly agree
30%	39%	Mildly agree
11%	8%	Mildly disagree
31%	20%	Strongly disagree
3%	1%	Don't know/Refused to answer

11. Companies should be allowed to advertise tobacco on TV.

24%	Strongly agree
27%	Mildly agree
10%	Mildly disagree
37%	Strongly disagree
1%	Don't know/Refused to answer

12. Companies should be allowed to advertise tobacco on billboards.

28%	Strongly agree
35%	Mildly agree
8%	Mildly disagree
28%	Strongly disagree
1%	Don't know/Refused to answer

17

13. Companies should be allowed to advertise liquor and alcohol products.

1997	1999	
25%	24%	Strongly agree
35%	39%	Mildly agree
12%	7%	Mildly disagree
26%	29%	Strongly disagree
2%	—	Don't know/Refused to answer

14. Companies should be allowed to advertise liquor and alcohol products on billboards.

25%	Strongly agree
35%	Mildly agree
11%	Mildly disagree
29%	Strongly disagree
—	Don't know/Refused to answer

15. Companies should be allowed to advertise liquor and alcohol products on TV.

24%	Strongly agree
27%	Mildly agree
10%	Mildly disagree
38%	Strongly disagree
1%	Don't know/Refused to answer

16. People should be allowed to express unpopular opinions.

1997	1999	
68%	58%	Strongly agree
22%	28%	Mildly agree
5%	8%	Mildly disagree
4%	5%	Strongly disagree
1%	1%	Don't know/Refused to answer

17. Musicians should be allowed to sing songs with words that others might find offensive.

1997	1999	
23%	27%	Strongly agree
28%	29%	Mildly agree
16%	15%	Mildly disagree
31%	26%	Strongly disagree
3%	4%	Don't know/Refused to answer

18. People should be allowed to place sexually explicit material on the Internet.

1997	1999	
10%	10%	Strongly agree
15%	14%	Mildly agree
10%	12%	Mildly disagree
62%	63%	Strongly disagree
3%	1%	Don't know/Refused to answer

19. People should be allowed to burn or deface the American flag as a political statement.

1997	1999	
10%	10%	Strongly agree
10%	10%	Mildly agree
8%	6%	Mildly disagree
70%	74%	Strongly disagree
2%	1%	Don't know/Refused to answer

20. School students should be allowed to wear a T-shirt with a message or picture that others may find offensive.

1997	1999	
9%	10%	Strongly agree
17%	17%	Mildly agree
22%	23%	Mildly disagree
48%	48%	Strongly disagree
4%	2%	Don't know/Refused to answer

21. People should be allowed to use words in public that might be offensive to racial groups.

1997	1999	
8%	8%	Strongly agree
15%	13%	Mildly agree
14%	16%	Mildly disagree
61%	62%	Strongly disagree
2%	1%	Don't know/Refused to answer

22. People should be allowed to display in a public place art that has content that might be offensive to others.

1997	1999	
20%	17%	Strongly agree
24%	24%	Mildly agree
22%	24%	Mildly disagree
31%	33%	Strongly disagree
4%	2%	Don't know/Refused to answer

23. Should pro-abortion and anti-abortion groups be allowed to protest or demonstrate in a community such as yours?

25%	Should not
66%	Should
9%	Don't know/Refused to answer

24. Should militia groups, white supremacists, skinheads or Nazis be allowed to protest in a community like yours?

52%	Should not
44%	Should
4%	Don't know/Refused to answer

25. Some people feel that the U.S. Constitution should be amended to make it illegal to burn or desecrate the American flag as a form of political dissent. Others say that the U.S. Constitution should not be amended to specifically prohibit flag burning. Do you think the U.S. Constitution should or should not be amended to prohibit burning or desecrating the American flag?

1997	1999	
49%	48%	Should not
49%	51%	Should
2%	1%	Don't know/Refused to answer

26. (If "Should" to previous question, ask:) If an amendment prohibiting flag burning were approved, it would be the first time any of the freedoms in the First Amendment has been amended in over 200 years. Knowing this, would you still support an amendment to prohibit flag burning?

1997	1999	
88%	90%	Yes
9%	8%	No
3%	2%	Don't know/Refused to answer

27. Tell me if you agree or disagree with the following statement: News organizations should be allowed to report or publish what they think is appropriate to report.

31%	Strongly agree
35%	Mildly agree
14%	Mildly disagree
16%	Strongly disagree
4%	Don't know/Refused to answer

I'm going to read you some ways that freedom of the press may be exercised. For each, tell me if you agree or disagree that the press should be allowed to do it.

28. Newspapers should be allowed to publish freely without government approval of a story.

1997	1999	
56%	38%	Strongly agree
24%	27%	Mildly agree
11%	14%	Mildly disagree
6%	18%	Strongly disagree
3%	3%	Don't know/Refused to answer

29. Journalists should be allowed to keep a news source confidential.

1997	1999	
58%	48%	Strongly agree
27%	31%	Mildly agree
6%	10%	Mildly disagree
6%	9%	Strongly disagree
2%	3%	Don't know/Refused to answer

30. Broadcasters should be allowed to televise courtroom trials.

1997	1999	
28%	34%	Strongly agree
23%	33%	Mildly agree
19%	13%	Mildly disagree
25%	17%	Strongly disagree
4%	3%	Don't know/Refused to answer

31. Newspapers should be allowed to endorse or criticize political candidates.

1997	1999	
43%	35%	Strongly agree
26%	28%	Mildly agree
11%	14%	Mildly disagree
18%	22%	Strongly disagree
2%	2%	Don't know/Refused to answer

22

32. The news media should be allowed to report government secrets that have come to journalists' attention.

1997	1999	
35%	23%	Strongly agree
26%	25%	Mildly agree
14%	18%	Mildly disagree
21%	30%	Strongly disagree
5%	3%	Don't know/Refused to answer

33. Television networks should be allowed to project winners of an election while people are still voting.

1997	1999	
15%	11%	Strongly agree
16%	18%	Mildly agree
17%	19%	Mildly disagree
51%	51%	Strongly disagree
1%	1%	Don't know/Refused to answer

34. High school students should be allowed to report controversial issues in their student newspapers without approval of school authorities.

1997	1999	
24%	19%	Strongly agree
21%	18%	Mildly agree
23%	27%	Mildly disagree
29%	33%	Strongly disagree
3%	3%	Don't know/Refused to answer

35. Journalists should be allowed to use hidden cameras in their reporting.

1997	1999	
13%	9%	Strongly agree
18%	18%	Mildly agree
20%	18%	Mildly disagree
45%	54%	Strongly disagree
3%	1%	Don't know/Refused to answer

36. Broadcasters should be allowed to televise the proceedings of the U.S. Supreme Court.

44%	Strongly agree
29%	Mildly agree
11%	Mildly disagree
12%	Strongly disagree
3%	Don't know/Refused to answer

37. Journalists should be allowed to investigate the private lives of public figures.

17%	Strongly agree
21%	Mildly agree
18%	Mildly disagree
42%	Strongly disagree
1%	Don't know/Refused to answer

24

38. Do you agree or disagree with the following statement: Any group that wants should be allowed to hold a rally for a cause or issue even if it may be offensive to others in the community.

1997	1999	
38%	30%	Strongly agree
34%	32%	Mildly agree
10%	16%	Mildly disagree
15%	20%	Strongly disagree
3%	3%	Don't know/Refused to answer

39. Do you agree or disagree with the following statement: The government should regulate what appears on television.

20%	Strongly agree
25%	Mildly agree
21%	Mildly disagree
32%	Strongly disagree
2%	Don't know/Refused to answer

40. As you may know, most public libraries have computers that visitors may use to access information on the Internet. I'm going to read you two statements. Please tell me which one comes closest to your own opinion. Some people think (read first choice). Other people think (read second choice). Which of these comes closest to your own opinion?

58%	That public libraries should block access to certain Internet sites that might offend some people.
38%	That public library users should have access to all Internet sites.
4%	Don't know/Refused to answer

25

41. As you may know, courts have traditionally given broad First Amendment protections to books and newspapers that contain material that may be offensive to some people. Recently the U.S. Supreme Court ruled that material on the Internet has the same First Amendment protections as printed material such as books and newspapers. Do you agree or disagree with this ruling ... strongly or mildly?

1997	1999	
30%	31%	Strongly agree
26%	33%	Mildly agree
15%	17%	Mildly disagree
23%	14%	Strongly disagree
5%	6%	Don't know/Refused to answer

I'm going to read you some ways people might exercise their First Amendment right of free speech. For each, tell me if you agree or disagree that someone should be allowed to do it.

42. People should be allowed to publish sexually explicit material in magazines.

16%	Strongly agree
29%	Mildly agree
12%	Mildly disagree
41%	Strongly disagree
1%	Don't know/Refused to answer

43. Thinking specifically about premium subscription cable channels like HBO, Cinemax, and Showtime, do you think they should be allowed to show sexually explicit material on the air?

26

25%	Strongly agree
34%	Mildly agree
11%	Mildly disagree
28%	Strongly disagree
2%	Don't know/Refused to answer

44. Basic cable television should be allowed to show sexually explicit material on the air.

10%	Strongly agree
16%	Mildly agree
18%	Mildly disagree
55%	Strongly disagree
1%	Don't know/Refused to answer

45. Radio shows should be allowed to talk about sexually explicit material.

10%	Strongly agree
22%	Mildly agree
21%	Mildly disagree
45%	Strongly disagree
1%	Don't know/Refused to answer

46. Video stores should be allowed to rent out sexually explicit videos.

24%	Strongly agree
39%	Mildly agree
9%	Mildly disagree
25%	Strongly disagree
2%	Don't know/Refused to answer

47. Do you think the federal government should or should not be involved, either directly or indirectly, in requiring the rating of entertainment television programs?

57%	Should
40%	Should not
3%	Don't know/Refused to answer

48. As you may know, the ratings system applies to entertainment shows on TV. Do you think this ratings system should or should not also apply to TV news programs?

59%	Should apply
37%	Should not apply
4%	Don't know/Refused to answer

49. There has been a lot of talk lately about rating or placing regulations on what is posted on the Internet. Do you think the government has a role to play in developing a system to rate Internet material, or do you think government should not be involved?

58%	Government should be involved
37%	Government should not be involved
4%	Don't know/Refused to answer

I'm going to read you some ways people might exercise their First Amendment rights. For each, please tell me if you agree or disagree that someone should be allowed to do it.

50. Tabloid newspapers such as *The Star* and the *National Enquirer* should have the same freedom to publish what they want as other newspapers such as *The New York Times* and *The Wall Street Journal*.

28

1997	1999	
43%	36%	Strongly agree
33%	35%	Mildly agree
8%	8%	Mildly disagree
14%	19%	Strongly disagree
2%	2%	Don't know/Refused to answer

51. Magazines such as *Playboy* and *Hustler* should have the same freedom to publish what they want as other magazines such as *Time* and *Newsweek*.

39%	Strongly agree
32%	Mildly agree
7%	Mildly disagree
20%	Strongly disagree
2%	Don't know/Refused to answer

52. Television shows such as the "Jerry Springer Show" and "Jenny Jones" should have the same freedom to air what they want as ABC's "World News Tonight with Peter Jennings."

30%	Strongly agree
30%	Mildly agree
11%	Mildly disagree
26%	Strongly disagree
3%	Don't know/Refused to answer

Please tell me whether you agree or disagree with the following statements.

53. The press should be allowed to publish factual information that may be embarrassing or sensitive regarding a public official's private life.

29

21%	Strongly agree
27%	Mildly agree
17%	Mildly disagree
34%	Strongly disagree
1%	Don't know/Refused to answer

54. The press should be allowed to publish factual information that may be embarrassing or sensitive regarding a celebrity who has not been voted into a public office (like an actor).

17%	Strongly agree
27%	Mildly agree
22%	Mildly disagree
31%	Strongly disagree
3%	Don't know/Refused to answer

55. The press should be allowed to publish factual information that may be embarrassing or sensitive regarding an ordinary citizen.

12%	Strongly agree
25%	Mildly agree
18%	Mildly disagree
42%	Strongly disagree
3%	Don't know/Refused to answer

56. Teachers or other public school officials should be allowed to lead prayers in school.

1997	1999	
37%	44%	Strongly agree
20%	21%	Mildly agree
15%	15%	Mildly disagree
25%	18%	Strongly disagree
2%	2%	Don't know/Refused to answer

30

57. Government should be allowed to regulate the activities of celebrity photographers (a.k.a. the paparazzi).

29%	Strongly agree
24%	Mildly agree
21%	Mildly disagree
23%	Strongly disagree
4%	Don't know/Refused to answer

III Methodology

The First Amendment Center at Vanderbilt University and the Center for Survey Research and Analysis at the University of Connecticut jointly developed this general public survey of attitudes on the First Amendment. At the University of Connecticut, Professor Ken Dautrich directed the project. Dr. Larry McGill of the Media Studies Center and Paul K. McMasters, First Amendment Ombudsman for The Freedom Forum, aided in developing the questionnaire. Kenneth A. Paulson, executive director of the First Amendment Center, provided overall direction for the project.

Telephone questionnaires were pre-tested with 30 respondents. The pre-test was used to ensure that questions were understood by respondents and response categories were appropriate.

Sample design

The University of Connecticut follows procedures in sampling and data processing that are designed to minimize error in the results. For the sampling procedure, we utilized a variation of random-digit dialing—working residential "blocks" were identified with the aid of published directories. These exchanges were chosen in a modified stratified procedure based on the proportion of the theoretical universe residing in the geographic area covered by each published directory. Thus, in general, if 10% of the universe lives in the area covered by a directory, 10% of the exchanges will be chosen from that area.

The universe for the First Amendment project was the adult non-institutionalized population of the contiguous 48 states who were 18 years of age and older. The geographic distribution in sampling was based on estimates of the distribution derived from the census figures for towns.

Once "working blocks" were identified, one telephone number was generated at random for each block. A household was given five distinct opportunities to be contacted before a substitution was made for it.

Once it had been determined that the household did, in fact, contain an eligible respondent, a random selection—unbiased by age or sex among the eligible respondents—was made. If that person was not the one who answered the telephone, an eligible respondent was called to the phone

"Household" was defined as a dwelling where at least one adult 18 years of age resided. Such institutions as college dormitories, prisons and the like were omitted.

Fieldwork

All interviewing for this project was conducted at the University of Connecticut's telephone center. Interviewing was conducted by telephone between Feb. 26 and March 24, 1999, using a Computer Assisted Telephone Interviewing (CATI) system. The CATI system utilizes computerized questionnaires, thereby reducing the amount of human error in the survey process.

The telephone interviews took place in the evenings on weekdays, on Saturday mornings and afternoons and on Sunday afternoons and evenings. This schedule avoided the potential for bias caused by selecting people who were at home only at certain times. If a given telephone number did not result in an interview—for whatever reason—a substitution was made for it from within the same working block (which functioned as a single member "cluster"). This meant that one person's not being at home, for example, did not keep his or her cluster from coming into the survey.

Sampling Error

A total of 1,001 interviews were conducted with a national scientific sample of adults 18 years of age or older. Sampling error for a sample of this size is ±3% at the 95% level of confidence. Sampling error for subgroups (e.g. men, women, etc.) is larger.

The size of sampling errors depends largely on the number of interviews. The following table may be used in estimating the sampling error of any percentage in the report. The computed allowances have taken into account the effect of the sample design upon sampling error. They may be interpreted as indicating that the range (plus or minus the figure shown) within the results of repeated sampling in the same time period could be expected to vary 95% of the time, assuming the same sampling procedure, the same interviewers and the same questionnaire were used.

The table is used in the following manner: If a reported percentage is 33% for a group that included 1000 respondents, go first to the row headed "percentages near 30" and go across to the column headed "1000." The number at this point is 4. This means that the 33% obtained in the sample are subject to a sampling error of plus or minus 4 points. Another way of saying it is that, very likely (95 times out of 100), the average of repeated sampling would be somewhere between 29% and 37%, with the most likely figure being 33%.

SAMPLE SIZE	1000	750	600	400	200	100
PERCENTAGES NEAR 10	2	3	3	4	5	7
20	3	4	4	5	7	9
30	4	4	4	6	8	10
40	4	4	5	6	8	11
50	4	4	5	6	8	11
60	4	4	5	6	8	11
70	4	4	4	6	8	10
80	3	4	4	5	7	9
90	2	3	3	4	5	7

33

Over-Time Comparison

Some of the questions in this survey are repeated from questions administered in the 1997 First Amendment study sponsored by The Freedom Forum. These serve as time-line comparisons to track changes in opinion.

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